APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,890	08/01/2003	Damon V. Danieli	MSI-1501US	3050

22801   7590   05/06/2011
LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

EXAMINER
TEKLE, DANIEL T

ART UNIT	PAPER NUMBER
2481	

NOTIFICATION DATE	DELIVERY MODE
05/06/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

	Application No.	**Applicant(s)**
Office Action Summary	10/632,890	DANIELI, DAMON V.
	Examiner	**Art Unit**	
	DANIEL TEKLE	2481	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01/01/11</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-51,53,54,56-62,64-75 and 77-82</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-51,53,54,56-62,64-75 and 77-82</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2.   **Claims 32-44** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

3.   The claim recites, *inter alia*, "A computer readable storage medium having a computer readable program stored thereon that is ..." After close inspection, the Examiner respectfully notes that the disclosure, as a whole, does not specifically identify what may be included as a computer readable storage medium and what is not to be included as a computer readable storage medium.

4.   An Examiner is obliged to give claims their broadest reasonable interpretation consistent with the specification during examination. The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal, *per se*, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter.

5.   Therefore, given the silence of the disclosure and the broadest reasonable interpretation, the computer readable storage medium of the claim may include

transitory propagating signals. As a result, the claim pertains to non-statutory subject matter.

6.   However, the Examiner respectfully submits a claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 U.S.C. § 101 by adding the limitation "non-transitory" to the claim. Such an amendment would typically not raise the issue of new matter, even when the specification is silent because the broadest reasonable interpretation relies on the ordinary and customary meaning that includes signals *per se*. For additional information, please see the Patents' Official Gazette notice published February 23, 2010 (1351 OG 212).

Response to Argument

Applicant's arguments with respect to claim 1-54, 56-62, 64-75 and 77-82 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argument regarding the official Notice taken by the examiner; the examiner supporting a reference as presented below.

US 2004/0033061 corresponding to claim 11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said invention pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1-54, 56-62, 64-75 and 77-82 rejected under 35 U.S.C. 103(a) as being

unpatentable over Watkins (US 6,442,331), and further in view of Wugofski (US

20030128230).

Regarding Claim 1: Watkins discloses a method implemented on a device by a

processing unit configured to execute computer-executable instructions that, when

executed by the processing unit, direct the device to perform acts comprising: obtaining

audio/video data from a disc **(column 5 line 56: Optical disk system include**

audio/video data); presenting the audio/video data to a user **(column 1 lines 51-62);**

obtaining executable software instructions from the disc **(column 6 lines 7-16:**

Microprocessor 22 executes software instructions); receiving an input from the user

(column 1 lines 51-62: user interact with the multimedia presentation); and

executing, in response to the input **(column 6 lines 7-16: Microprocessor 22**

executes software instructions), the executable software instructions to determine

how to enhance presentation of the audio/video data to the user **(column 6 lines 7-16:**

Microprocessor 22 executes software instructions to form a 3D presentation

data), wherein executing the executable software instructions comprises: identifying a

temporal location of the audio/video data currently being played back **(column 7 lines**

50-60: SPU data packet define the size and location of the window as well as a

display time); identifying programmatic data corresponding to the identified temporal

location **(column 7 lines 50-60: Header portion 46 includes 3D presentation data);**

and enhancing a presentation of the audio/video data by processing the identified

programmatic data **(column 7 lines 50-60: displaying 3D presentation)** by executing

the executable software instruction **(column 6 lines 7-16: Microprocessor 22 executes software instructions)**.

However Watkins fail to explicitly teach, but Wugofski teaches obtaining executable software instructions from the disc **(paragraph 0033: The module 146 of the present invention may be implemented by computer programs of machine-executable instructions written in any number of suitable languages and stored on machine or computer readable media such as disk diskette, RAM, ROM, or other device commonly included in a personal computer such as computer 130).**

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teachings of Wugofski into the system of Watkins in order to playback a 3D data from disk carries a software or executable code that can playback a 3D data; as a result it easy to use a disk that can carry 3D playback software to a plurality playback device.

Regarding Claim 2: Watkins and Wugofski discloses a method as recited in claim 1, further Watkins discloses comprising: obtaining the programmatic data from the disc **(column 8 lines 1-20: DVD-compliant, OSD)**.

Regarding Claim 3: Watkins and Wugofski discloses a method as recited in claim 1, further Watkins discloses comprising: obtaining the programmatic data from a local storage device **(Figure 1: Memory unit 16)**.

Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins

(US 6,442,331) and Wugofski (US 20030128230), and further in view of Fleming, III et

al. (US 6,973,461).

Regarding Claim 4: Watkins and Wugofski discloses a method as recited in claim 1,

however Watkins and Wugofski fail to explicitly teach, but Fleming, III et al. teaches

obtaining the programmatic data from a remote storage device, **(column 2 lines 9-22:**

medium distinct form the DVD or hard drive of a server accessible via the

internet).

It would have been obvious to one ordinary skill in the art at the time of the

invention was made to combine the teachings of Fleming III et al. accessing medium

distinct from the DVD or hard drive of a server accessible via the internet for rating AV

data into the system of Watkins in order to eliminate objectionable sense, thus a parents

have an ability to control over the playback of audiovisual work.

Regarding Claim 5: Watkins and Wugofski discloses a method as recited in claim 1,

further Watkins discloses wherein the user input comprises a user input requesting an

action be taken regarding playback of the audio/video data **(column 6 lines 64-67:**

input devices 30 produces an output signal in response to a user input).

Regarding Claims 7: Claims 7 reject for the same reason to claim 1 as discussed

above; further Wugofski teaches "set of executable instructions are loaded by the

playback device when the source is initially accessible to the playback device"

(paragraph 0033: a hard drive which stores software).

Regarding Claims 8-9: Claims 8-9 reject for the same reason to claim 2 as discussed above.

Regarding Claim 10: Watkins and Wugofski discloses a method as recited in claim 7, further Watkins discloses wherein the enhancing comprises improving the quality of the video data of the audio/video data **(column 7 lines 50-60: displaying 3D presentation).**

Regarding Claim 13: Watkins and Wugofski discloses a method as recited in claim 7, further Watkins discloses wherein the enhancing comprises incorporating popup information into the video data of the audio/video data **(column 8 lines 1-21: OSD display e.g. textual message or menu).**

Regarding Claim 14: Watkins and Wugofski discloses a method as recited in claim 7, wherein the enhancing comprises displaying popup information when playback of the audio/video data is paused **(column 8 lines 1-21: OSD display e.g. textual message or menu)**

Regarding Claim 15: Watkins and Wugofski discloses a method as recited in claim 7, further Fleming et al. discloses wherein the enhancing comprises allowing the user to scan through important scenes of the audio/video data, wherein the important scenes are identified in the programmatic data **(Figure 2: use pointer to play selected version)**

Regarding Claim 16: Watkins and Wugofski discloses a method as recited in claim 7, further Fleming et al. discloses wherein the enhancing comprises presenting, to the

user, a summary of important scenes of the audio/video data up to a particular point in

the audio/video data **(Figure 2: use pointer to play selected version)**

Regarding Claim 17: Watkins and Wugofski discloses a method as recited in claim 7,

further Fleming et al. discloses wherein the enhancing comprises allowing the user to

access additional episodic content associated with the audio/video data **(Figure 2: use**

pointer to play selected version)

Regarding Claim 11: Watkins and Wugofski discloses a method as recited in claim 7,

however Watkins and Wugofski fail to discloses wherein the enhancing comprises

creating an HDTV (High Definition TV) version of the video data of the audio/video data.

Official Notice is taken that both the concept and the advantage of the view of HDTV

version of video data is well known and expected in the art.

Thus, it would have been obvious to one skilled in the art, at the time of the

applicant's invention, to utilize said feature within said system taught by Watkins and

Wugofski, because such incorporation would result in better and clear view video data.

Regarding Claim 12: Watkins and Wugofski discloses a method as recited in claim 7;

however Watkins and Wugofski fail to discloses wherein the enhancing comprises

converting the video data of the audio/video data to a different aspect ratio. Official

Notice is taken that both the concept and the advantage of converting the video data of

the audio/video data to a different aspect ratio is well known and expected in the art.

Thus, it would have been obvious to one skilled in the art, at the time of the applicant's invention, to utilize said feature within said system taught by Watkins and Wugofski, because such incorporation would result in better and clear view video data.

Regarding Claims 18: Claims 18 reject for the same reason to claims 11-17 as discussed above. See the discussion for HDTV correspond with claim 11, aspect ration correspond with claim 12, popup correspond with claim 13, display popup correspond with claim 14, allowing user to scan correspond with claim 15, summary important since correspond with claim 16, allowing the user to access additional episodic correspond with claim 17.

Regarding Claims 19: Claims 19 reject for the same reason to claim 1 as discussed above.

Regarding Claims 20-21: Claims 20-21 reject for the same reason to claim 2 and 9 respectively as discussed above.

Regarding Claims 22-23: Claims 22-23 reject for the same reason to claim 3 and 4 respectively as discussed above.

Regarding Claims 24-31: Claims 24-31 reject for the same reason to claims 10-17 respectively as discussed above.

Regarding Claims 32: Claims 32 reject for the same reason to claim 1 as discussed above.

Regarding Claims 33-34: Claims 33-34 reject for the same reason to claim 9 as discussed above.

Regarding Claim 35: Claim 35 reject for the same reason to claim 32 as discussed above.

Regarding Claim 36: Claims 36 reject for the same reason to claim 1 as discussed above.

Regarding Claims 37-44: Claims 37-44 reject for the same reason to claims 10-17 respectively as discussed above.

Regarding Claims 45-46: Claims 45-46 reject for the same reason to claim 7 and 2 respectively as discussed above.

Regarding Claim 47: Claim 47 reject for the same reason to claims 1 and 11-12 as discussed above.

Regarding Claim 48: Claim 48 reject for the same reason to claims 2 as discussed above

Regarding Claim 49: Watkins and Wugofski discloses all the limitation of claim 48 as discussed in claim 47 above; however Watkins and Wugofski. fail to discloses executing, by the processing unit, a set of instructions that use the programmatic data to convert the video of the audio/video content from the first aspect ration to a second aspect ratio having at least one dimension smaller than the first aspect ration by removing at least one of rows of pixels or columns of pixels from the audio/video

content, wherein the programmatic data identifies which row of pixels or columns of pixels to remove for each image of a video track of the audio/video content.

Official Notice is taken that both the concept and the advantage of converting the video data of the audio/video data to a different aspect ratio, having at least one dimension smaller than the first aspect ration by removing at least one of rows of pixels or columns of pixels from the audio/video content, wherein the programmatic data identifies which row of pixels or columns of pixels to remove for each image of a video track of the audio/video contents well known and expected in the art.

Thus, it would have been obvious to one skilled in the art, at the time of the applicant's invention, to utilize said feature within said system taught by Watkins and Fleming, III et al., because such incorporation would result in better and clear view video data.

Regarding Claims 50: Claims 50 reject for the same reason to claim 2 as discussed above.

Regarding Claims 51: Claims 51 reject for the same reason to claim 1 and 13 as discussed above.

Regarding Claims 53: Claims 53 reject for the same reason to claim 27 as discussed above.

Regarding Claim 54: Watkins and Wugofski discloses a method as recited in claim 51, further Watkins discloses wherein the popup information includes text overlaying the video content **(column 8 lines 1-21: OSD display e.g. textual message or menu).**

Regarding Claim 56: Watkins and Wugofski discloses a method as recited in claim 51, further Watkins discloses wherein the set of instructions, the audio/video content, and the programmatic data are all obtained from a same DVD **(column 5 line 56: Optical disk system include audio/video data).**

Regarding Claim 57: Claim 57 are reject for the same reason to claim 51 as discussed above.

Regarding Claims 58-61: Claims 58-61 reject for the same reason to claims 53-56 respectively as discussed above.

Regarding Claim 62: Claims 62 reject for the same reason to claim 1 and 7 as discussed above.

Regarding Claim 64: Watkins and Wugofski discloses a method as recited in claim 62, further Fleming III et al. discloses wherein the programmatic data further comprises data identifying scenes of the audio/video content that are important to a sub-plot of the audio/video content **(Figure 2: connect to data base 41 and download pointer to allow playback of selected version 43)**, and wherein the device scans through the of the audio/video scenes content that are important to the sub-plot in response to the user request **(Figure 2: user selected version available on DVD 37)**

Watkins and Wugofsk discloses all the claimed limitation as discussed above, except fail to explicitly teach identifying which content is to be displayed for different rating level; however Fleming, III et al. discloses categorize scenes by rating **(Figure 1: categorize scenes by ratings).**

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teachings of Fleming III et al. directed to ward categorize scenes by rating into the system of Watkins in order to eliminate objectionable sense, thus a parents have an ability to control over the playback of audiovisual work.

Regarding Claim 65: Watkins and Wugofski discloses a method as recited in claim 62, further Fleming III et al. discloses wherein the device scans through the important scenes by jumping to a next important scene of a plurality of important scenes in response to the user request **(Figure 2: use pointers to play selected version 45)**

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teachings of Fleming III et al. directed to ward categorize scenes by rating into the system of Watkins in order to eliminate objectionable sense, thus a parents have an ability to control over the playback of audiovisual work.

Regarding Claim 66: Watkins and Wugofski discloses a method as recited in claim 62, Fleming III et al. discloses wherein the user request comprises activation of a scan

button on an input device by the user remote control **(Figure 2: connect to database 41)**

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teachings of Fleming III et al. directed to ward categorize scenes by rating into the system of Watkins in order to eliminate objectionable sense, thus a parents have an ability to control over the playback of audiovisual work.

Regarding Claim 67: Watkins and Wugofski discloses a method as recited in claim 62, Fleming III et al. discloses wherein the device plays back a plurality of important scenes in response to a single user request **(Figure 2: use pointers to play selected version 45)**

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teachings of Fleming III et al. directed to ward categorize scenes by rating into the system of Watkins in order to eliminate objectionable sense, thus a parents have an ability to control over the playback of audiovisual work.

Regarding Claim 68: Claim 68 rejected for same reason to claim 61 as discussed above.

Regarding Claim 69: Claim 69 rejected for same reason to claim 62 as discussed above.

Regarding Claim 70-71: Claim 70-71 rejected for same reason to claim 67 as discussed above.

Regarding Claim 72: Claim 72 rejected for same reason to claim 61 as discussed above.

Regarding Claim 73: Claim 73 are reject for the same reason to claim 61 as discussed above.

Regarding Claim 74: Claim 74 are reject for the same reason to claim 64 as discussed above.

Regarding Claim 75: Claim 75 are reject for the same reason to claim 64 as discussed above.

Regarding Claim 77: Claim 77 are rejected for the same subject matter as claim 61.

Regarding Claims 78-80: Claims 78-80 are rejected for the same subject matter as claims 7, 18 and 61 respectively.

Regarding Claim 81-82: Claim 81-82 are reject for the same reason to claim 64 as discussed above.

     Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter-Anthony Pappas can be reached on 571-272-7646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel Tekle/
Examiner, Art Unit 2481

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2484